



PREPROPOSAL STATEMENT OF INQUIRY

(RCW 34.05.310)

CR-101 (7/22/01)

Do **NOT** use for expedited rule making

Agency: Department of Ecology AO # 02-15

Subject of possible rule making: The Water Quality Program proposes to amend via pilot rulemaking and eventually formal amendments, Chapter 173-98 WAC, *Uses and Limitations of the Water Pollution Control Revolving Fund*, (SRF) to allow public bodies to use the "Design/Build" concept for completion of wastewater facilities. The concept allows for a "service agreement" between local public bodies and firms to be awarded for the design and construction of portions of the facility in the sequence that best suits local needs. Once a public body demonstrates its ability to meet legal requirements (e.g. delegation of design approval authority, etc), it can proceed without the need for further reviews by Ecology. Depending on the provisions of the service agreement(s), SRF recipients may contract the operation of the facilities with the service providers.

(a) Statutes authorizing the agency to adopt rules on this subject: Chapter 90.50A RCW, *Water Pollution Control Facilities -Federal Capitalization Grants*

(b) Reasons why rules on this subject may be needed and what they might accomplish:

There are no such provisions in the present rule. The present regulation, which was substantially updated in December, 2000, addresses a more traditional approach of designing the entire facility. Under present rules, Ecology approves the entire design before the public body is able to apply for construction funding. This sequential "design/bid/construct" approach then allows for the entire facility to be bid and constructed.

Several public bodies in the state have studied the use of the D/B approach used for wastewater facilities projects nationwide. The local government staff believe from this research that the D/B approach to completion of major facilities can potentially save their ratepayers considerable money, and facilitate completion well ahead of more traditional approaches of design/bid/construct. These public bodies are also interested in cost savings associated with securing very low interest SRF loans administered by Ecology's Water Quality Program. Amendments to the Existing SRF rule will facilitate the access to this financial assistance for the D/B process.

Ecology may also realize benefits of an expedited design process with more responsibility being delegated to those public

(c) Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

The State Revolving Fund is seeded by federal funds allocated by EPA in all 50 States. The D/B process is used with SRF funds in several other States and is strongly supported by EPA as a way for local government to save both time and money. The Regional EPA coordinator for SRF is on Water Quality Program's Financial Assistance Council, and he fully supports the

(d) Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
- ☒ Pilot rule making
- ☐ Agency study
- ☐ Other (describe)

(e) How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers of persons to contact; describe meetings, other exchanges of information, etc.)

After November 15, 2002, for a draft of the rule and guidelines and comment schedule, please contact:

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